

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

RICHARD MA and FRED DEVEREAUX,  
individually and on behalf of all others similarly  
situated,

Plaintiffs,

v.

MAPFRE U.S.A. CORP. and THE COMMERCE  
INSURANCE COMPANY,

Defendants.

Case No. 1:23-cv-12059

BRIAN CONWAY, individually and  
on behalf of all similarly situated persons,

Plaintiff,

v.

MAPFRE U.S.A. CORP. and THE COMMERCE  
INSURANCE COMPANY,

Defendants.

Case No. 1:23-cv-12076

PAMELA BROWN, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

MAPFRE U.S.A. CORP. and THE COMMERCE  
INSURANCE COMPANY,

Defendants.

Case No. 3:23-CV-12101

LYNNE ALEXANDEROWICS, individually and  
on behalf of all similarly situated persons,

Plaintiff,

v.

MAPFRE U.S.A. CORP. and THE COMMERCE  
INSURANCE COMPANY,

Defendants.

Case No. 4:23-CV-40125

BRIAN RAY, individually and  
on behalf of all similarly situated persons,

Plaintiff,

v.

MAPFRE U.S.A. CORP. and THE COMMERCE  
INSURANCE COMPANY,

Defendants.

Case No. 1:23-CV-12214

VERONICA GREGORY, individually and  
on behalf of all similarly situated persons,

Plaintiff,

v.

MAPFRE U.S.A. CORP. and THE COMMERCE  
INSURANCE COMPANY,

Defendants.

Case No. 1:23-cv-12225

**DECLARATION OF JASON S. RATHOD IN SUPPORT OF PLAINTIFFS' MOTION  
FOR APPOINTMENT OF INTERIM CO-LEAD CLASS COUNSEL**

I, Jason S. Rathod, declare as follows:

1. I am an attorney admitted to practice law in the State of Illinois and the District of Columbia. I am also a founding partner of Migliaccio & Rathod LLP ("M&R"), which is based in Washington D.C. with an office in San Francisco, and counsel for Plaintiffs Richard Ma and Fred

Devereaux in this litigation. I have personal knowledge of the matters stated in this declaration except those stated on information and belief, and as to those, I believe them to be true. If called upon, I could and would competently testify to them.

2. I am one of Plaintiff's counsel in *Ma, et al. v. MAPFRE USA Corp., et al.*, 1:23-cv-12059. I submit this declaration in support of Plaintiffs' Unopposed Motion to Consolidate Related Actions and Appoint Interim Co-Lead Class Counsel, which among other things, moves the Court to appoint as interim co-lead counsel an Executive Committee consisting of: Jason Rathod of Migliaccio & Rathod LLP ("M&R"), Andrew W. Ferich of Ahdoot & Wolfson PC ("AW"), Mark B. DeSanto of Berger Montague PC ("BM"), Gary F. Lynch of Lynch Carpenter, LLP, Joseph P. Guglielmo of Scott + Scott Attorneys At Law LLP, and Kate Baxter-Kauf of Lockridge Grindal Nauen P.L.L.P. (collectively, "Proposed Counsel").

### **EXPERIENCE**

3. M&R has, and will have, the experience, expertise, and resources to effectively litigate any and all issues related to this litigation.

4. I am widely regarded as a well-experienced class action attorney. I have been appointed class counsel in a number of class actions, in litigation and settlement settings, by federal and state courts across the country. In the past two years, I have also been appointed to leadership positions in federal multidistrict litigations (MDLs) following a competitive process that required individual applications: *In Re: Kia Hyundai Vehicle Theft Litigation*, No. 8:22-ml-03052-JVS-KES (C.D. Cal.) (Selna, J.) (expert committee appointment); *In re: Philips Recalled CPAP, Bi-Level Pap, and Mechanical Ventilator Products Litigation*, MDL No. 3014 (W.D. Pa.) (Conti, J.) (Plaintiff Steering Committee appointment).

5. Before I founded M&R, I gained valuable, extensive experience in complex civil litigation at the firm Whitfield Bryson & Mason LLP. By way of example, I drafted the appellee briefing in *Young v. Nationwide Mut. Ins. Co.*, 693 F.3d 532 (6th Cir. 2012), in which the Sixth Circuit affirmed a class certification order in a series of insurance overcharge lawsuits, issued a foundational opinion on ascertainability in that circuit, and led to several multimillion-dollar settlements.

6. My partner, Nicholas Migliaccio, and I started our firm in 2016. Since then, M&R has helped secure several significant orders in class and collective action cases. Nearly all of M&R's cases fall in the category of complex civil litigation and include a number of data breach and privacy class actions pending across the country. M&R and/or its attorneys, including myself, have served in leadership positions in several data privacy class action cases. *See, e.g., In Re LastPass Data Sec. Incident Litig.*, No. 1:22-cv-12047-PBS (D. Mass) (appointing M&R partner interim co-lead counsel); *Bickham v. Reprosourse Fertility Diagnostics, Inc.*, No. 1:21-CV-11879-GAO (D. Mass.) (serving as *de facto* interim co-lead counsel); *In re Practice Resources, LLC Data Sec. Breach Litig.*, No. 22-CV-0890 (N.D.N.Y.) (interim co-lead counsel), *In Re Netgain Tech., LLC, Consumer Data Breach Litig.*, No. 21-cv-1210 (SRN/LIB) (D. Minn.) (executive committee member), and *In re Eskenazi Health Data Incident Litig.*, No. 49D01-2111-PL-038870 (Ind. Sup. Ct.) (executive committee member). In these cases and others, my firm and I have been involved with all aspects and stages of each litigation. I am also experienced in coordinating with a team of Plaintiffs' counsel to work together to prosecute such actions efficiently and without duplication. I have been involved in reaching consensus on behalf of all counsel in this litigation about the proposed leadership structure and am committed to prosecuting the case cooperatively and efficiently on behalf of the class.

7. I have helped lead the prosecution of cases that have resulted in positive decisions to advance the development of law in this important area. *See, e.g., Salas v. Acuity-CHS, LLC*, Civil Action No. 22-317-RGA, 2023 U.S. Dist. LEXIS 54825 (D. Del. Mar. 30, 2023) (largely denying motion to dismiss in health care data breach); *Weisenberger v. Ameritas Mut. Holding Co.*, 597 F. Supp. 3d 1351 (D. Neb. 2022) (same); *Health Quest Sys.*, No. 20 CV 545 (VB), 2021 U.S. Dist. LEXIS 54557 (S.D.N.Y. Mar. 22, 2021) (same). Some have also resulted in nationwide settlements providing substantial monetary and non-monetary relief to the victims of data breaches. *See, e.g., McHenry v. Advent Health Partners, Inc.*, No. 3:22-cv-00287 (M.D. Tenn.) (nationwide settlement in which M&R was class counsel along with one other firm); *Carmack v. Snap-On, Inc.*, No. 2:22-cv-00695-WED (W.D. Wisc.) (nationwide settlement in which M&R was sole class counsel).

### **PRE-SUIT INVESTIGATION**

8. I, and other attorneys at Migliaccio & Rathod LLP, have dedicated substantial time and resources to this litigation, and will continue to do so. My firm and I investigated all aspects of this case, including the details of the data disclosure, Defendants MAPFRE U.S.A. Corp. and the Commerce Insurance Co., the impact of the data disclosure on consumers, and relevant law and causes of action before filing our case.

9. In the course of investigating this case, my firm researched, among other things: the causes of the data disclosure, the number and location of persons affected by the data disclosure, the nature of the information included in the disclosure, details of each Defendant's business and activities, Defendants' public statements regarding the data disclosure, the notices sent to persons affected by the data disclosure, and class member experiences concerning the data disclosure and its consequences.

10. My firm and I are prepared and able to spend all the necessary time and resources to ensure the best representation for Plaintiffs and the putative class, including advancing costs and expenses. My firm does not use, and has never required, third-party litigation funding. It also has substantial cash reserves to fund the litigation.

11. I believe that the appointment of Proposed Counsel as Interim Class Counsel will lead to the most efficient and organized litigation of these cases as possible.

12. A copy of my firm's resume is attached hereto as Exhibit A.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29<sup>th</sup> day of September, 2023, at Washington D.C.

/s/ Jason S. Rathod  
Jason S. Rathod